

☐ DAY CARE EVALUATOR MANUAL☒ RESIDENTIAL CARE EVALUATOR MANUAL

## TRANSMITTAL SHEET

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90 APX-11

Distribution

ALL RESIDENTIAL CARE EVALUATOR MANUAL HOLDERS

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Subject

RCFE: SUMMARY OF 1990 CHAPTERED LEGISLATION

Approved

WILLIAM C. JORDAN, Chief

Type of Change

☐ Temporary☒ Permanent

## REASON FOR CHANGE

This transmits summaries of legislation chaptered in 1990 affecting Residential Care Facilities for the Elderly. The summaries are divided into three sections:

- I. Immediate Action Required - Instructions will be incorporated into the appropriate Evaluator Manual section as soon as possible.
- II. No Action Pending Regulations or Further Instructions.
- ☒ I. Information Only - No Action Required.

Additionally, an Index is attached to assist staff in locating specific bills.

Statutes referenced in this document become operative on January 1, 1991.

This revision supplements the document transmitted under numbers 90 APX-04, issued February, 1990, and 90 APX-04E or 90 APX-04.1, issued June, 1990. Do not remove these latter documents from the EM.

☐ File this sheet and attachments in your Evaluator Manual in the front under "Temporary Changes" and annotate the following sections of regulations in the Evaluator Manual to reference back to this notice, or, file only this sheet under "Temporary Changes" and insert each attachment next to the corresponding EM page. (Do not remove existing EM pages.)

☐ Remove

☒ Insert the attached pages into the Appendix. Refer to Table of Contents for location.

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SUMMARY OF 1990 CHAPTERED LEGISLATION:

RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

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## I. IMMEDIATE ACTION REQUIRED

SB 1907 (Mello)  
Chapter 1337, Statutes of 1990

Affects: RCFEs

### Bill Summary

Section 1569.72 (e) - requires the licensee to notify the local fire authority within 48 hours of the presence of a bedridden person in the facility, regardless of the length of stay, advising of the estimated length of time that the resident will retain his or her bedridden status in the facility.

### Implementation

According to staff at the Office of the State Fire Marshal, their office will advise local fire authorities of this new requirement and request that they contact the licensing District Office if they get such calls. As the statute does not require written notification, a telephone call from facility staff will suffice. Licensees have been advised to document the calls in the resident's file. Cite H&S Code Section 1569.72 (e) when licensees are found to have failed to notify the local fire authority within 48 hours.

## II. NO ACTION PENDING REGULATIONS OR FURTHER INSTRUCTIONS

SB 1907 (Mello)  
Chapter 1337, Statutes of 1990

Affects: RCFEs

### Bill Summary

Section 1569.681 - renumbers the provision for including license numbers in all advertising. Two separate bills had used the same number in 1989. This bill moved the advertising provisions to the above section number, leaving the residents' right to choose a pharmacy created by Senate Bill 802 (Marks), Chapter 1419, Statutes of 1989 at Section 1569.314.

### Implementation

The 1989 Chaptered Legislation memo indicated that the statute should be cited. The new statutory reference will be incorporated into the proposed regulation package. Continue to cite the statute until regulations are released.

Section 1569.72 (a)(1) - prohibits admission or retention of persons who require 24-hour skilled nursing or intermediate care.

Implementation

This represents no change from current practice. No action pending regulations or further notice.

Section 1569.72(a)(2) - prohibits acceptance or retention of bedridden persons, as defined, unless the condition is temporary, meaning lasting less than 14 days, or if certain other conditions are met. A bedridden resident is defined as a person who (1) requires assistance in turning or repositioning in bed and is unable to leave a building unassisted under emergency conditions, or (2) is unable to independently transfer to and from bed and is unable to leave a building unassisted under emergency conditions.

In order to retain a temporarily bedridden person beyond 14 days, three conditions must be met: (1) the licensee must notify the Department in writing of the presence of the bedridden person; (2) the notice must include a written statement by a physician that the bedridden condition is temporary, giving an estimated date when the person will no longer be confined to bed; and (3) the Department must be satisfied that the health and safety of the resident are adequately protected in the facility and that a higher level of care is not needed.

Implementation

Continue to apply current bedridden rules (ie., not allowed unless by exception with appropriate fire clearance) until new regulations are developed.

### III. INFORMATION ONLY - NO ACTION REQUIRED

AB 1989 (Hannigan)  
Chapter 436, Statutes of 1990

Affects: RCFEs

#### Bill Summary

Section 13131.5 - established building standards for facilities with seven (7) or more beds which accept or retain nonambulatory persons. Separate standards are set, depending upon the number of floors or stories in the building and where the nonambulatory residents are housed.

The new standards shall apply uniformly throughout the state and no local jurisdiction may adopt any ordinance, rule or regulation which is inconsistent with the statute. The State Fire Marshal is directed to develop regulations to set a reasonable fee to cover the actual costs of performing the final inspection of any facility subject to the new building standards.

#### Implementation

Information only, no action required. Continue to request fire clearances using current procedures. These standards will be applied by the local fire authority when they perform a fire clearance inspection for new RCFEs with a capacity of seven (7) or more, which want to accept nonambulatory residents. It is our understanding that the new standards will be effective January 1, 1991 and are not retroactive to existing facilities. Local fire authorities will probably implement the fees at the same time.

AB 2989 (Hunter)  
Chapter 1488, Statutes of 1990

Affects: RCFEs also  
CCFs, CDC

#### Bill Summary

Section 1569.515 - This bill allows the Department to pay expert witness fees in Administrative Action Hearings. While the Department has found ways to do this in the past, the code has been changed to specifically authorize such payments.

Section 1569.485 - The other provision of the bill is a technical change only. It allows the Department to forego the unlicensed civil penalty when other remedies are more effective, such as taking criminal action. Some District Attorney offices had refused to take cases where a civil penalty had been assessed, and the law has required that the Department assess a civil penalty in all cases. The "catch 22" was corrected by this statute modification.

Implementation

Information only, no action required.

SB 1907 (Mello)  
Chapter 1337, Statutes of 1990

Affects: RCFEs

Bill Summary

Section 1569.72(f) - provides that nothing in this section can be used to determine the appropriateness of residents in RCFEs on the basis of health related conditions until three levels of care are implemented by statute in RCFEs.

Provides that this section shall not prohibit continued implementation of the Incidental Medical Services regulations, adopted by the Department on February 13, 1990 and found in the California Code of Regulations, Title 22, Section 87700 and following.

Implementation

Information only, no action required.